

Muriel B. Kaplan, Esq. (SBN: 124607)
Michele R. Stafford, Esq. (SBN: 172509)
SALTZMAN & JOHNSON LAW CORPORATION
120 Howard Street, Suite 520
San Francisco, CA 94105
Telephone: (415) 882-7900
Facsimile: (415) 882-9287
mkaplan@sjlawcorp.com

Attorneys for Plaintiffs,
NORTHERN CALIFORNIA GLAZIERS,
et al. PENSION PLAN, et al.

FILED
OCT 10 2006
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NORTHERN CALIFORNIA GLAZIERS,
ARCHITECTURAL METAL AND GLASS
WORKERS PENSION PLAN, et al.,

Plaintiffs,

v.

JOHN CORTEZ dba FRANK'S GLASS,

Defendant.

Case No.: C 06-2406 MJJ

**RESPONSE TO ORDER TO SHOW CAUSE,
and**

**PLAINTIFFS' REQUEST FOR
CONTINUANCE OF CASE
MANAGEMENT CONFERENCE;**

~~(PROPOSED)~~ ORDER

Plaintiffs submit the following Request for Continuance of the Case Management Conference currently scheduled for October 17, 2006, at 2:00 p.m., and to the Court's recent Order to Show Cause:

1. The complaint in this action was filed on April 6, 2006 to compel defendant to allow plaintiffs to audit its records in accordance with its collective bargaining agreement, and for payment of any amount found due upon audit.

2. An audit date was then set for July 17, 2006. Plaintiffs therefore requested, and the Court ordered, that the Case Management Conference set for July 18, 2006 be continued, to October 3, 2006.

- 1 -
RESPONSE TO ORDER TO SHOW CAUSE and ~~(PROPOSED)~~ ORDER

Case No.: C06-2406 MJJ

1 3. On September 20, 2006, the Court vacated that conference and rescheduled it for
2 October 17, 2006.

3 4. I am advised that Plaintiffs' auditors have reviewed Defendant's available records,
4 and are in the process of completing their report. Once a report is issued, the Defendant may
5 review it and respond; billing must then be sent and payment made. If that occurs without need for
6 further action, this matter will be dismissed.

7
8 5. The audit process is continuing in accordance with Plaintiff Trusts' procedures and
9 Plaintiffs have timely complied with the Court's filing calendar. Plaintiffs therefore submit that
10 the case should not be dismissed for any failure to prosecute.

11 6. Plaintiffs further request a continuance of the Case Management Conference for a
12 period of approximately 60 days to allow the audit report to be issued, and for resolution of this
13 matter.
14

15 Dated: October 5, 2006

Respectfully submitted,
SALTZMAN & JOHNSON LAW CORPORATION

17 By: _____/s/_____
18 Muriel B. Kaplan
19 Attorneys for Plaintiffs

20 ~~PROPOSED~~ **ORDER**

21
22 The Case Management Conference scheduled in this matter for October 17, 2006, at 2:00
23 p.m. is hereby continued to 12/19 at 2:00 p.m.

24 IT IS SO ORDERED.

25
26 Dated: 10/10

/s/ Martin J. Jenkins
UNITED STATES DISTRICT COURT JUDGE

PROOF OF SERVICE

I, the undersigned, declare:

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 120 Howard Street, Suite 520, San Francisco, California 94105

On October 5, 2006, I served the foregoing document(s) on the parties to this action, addressed as follows, in the manner described below:

RESPONSE TO ORDER TO SHOW CAUSE, and PLAINTIFFS' REQUEST FOR CONTINUANCE OF CASE MANAGEMENT CONFERENCE; ~~PROPOSED~~ ORDER

- ☒ **MAIL**, being familiar with the practice of this office for the collection and the processing of correspondence for mailing with the United States Postal Service, and deposited in the United States Mail copies of the same to the business addresses set forth below, in a sealed envelope fully prepared.
- ☐ **FACSIMILE** be causing said document(s) to be transmitted by Facsimile machine to the number indicated after the address(es) set forth below.
- ☐ **UPS** for delivery the following business day by placing same for collection by UPS to the business addresses set forth below.
- ☐ **PERSONAL DELIVERY** by placing said document(s) in a sealed envelope and causing it to be personally delivered to the address(es) set forth below.
- ☐ **ELECTRONICALLY** be causing said document(s) to be transmitted by Email to the address(es) set forth below.

Addressed to: **John Cortez**
 Frank's Glass
 1652 Berrywood Drive
 San Jose, CA 95133

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this October 5, 2006, at San Francisco, California.

_____/s/_____
Vanessa de Fábrega